



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via Facsimile & First Class Mail

Fax No.: (202) 434-1690

FEB - 4 2008

Brian G. Svoboda, Esq.
Perkins Coie
607 14th Street, NW
Washington, DC 20005-2011

RE: MUR 5895
Meeks for Congress, *et al.*

Dear Mr. Svoboda:

On November 27, 2007, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, Meeks for Congress and Patsy A. Simmons, in her official capacity as treasurer ("the Committee") and Hon. Gregory W. Meeks in settlement of violations of 2 U.S.C. §§ 434(b), 441a(f), 441b(a), 432(c)(5), 432(d) and 439a(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date, and that Congressman Meeks has six months from the agreement's effective date to refund the vehicle lease payments to the Committee as specified in Sections VI.4 and IX. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Christine C. Gallagher".

Christine C. Gallagher
Attorney

Enclosure
Conciliation Agreement

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of

4
5 Gregory W. Meeks
6 Meeks for Congress and Patsy A. Simmons,
7 in her official capacity as treasurer
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10 **CONCILIATION AGREEMENT**

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12 This matter was initiated by the Federal Election Commission ("Commission"), pursuant
13 to information ascertained in the normal course of carrying out its supervisory responsibilities
14 and after an audit of Meeks for Congress's 2004 election cycle activities. The Commission
15 found reason to believe that Meeks for Congress and Joan E. Flowers, in her official capacity as
16 treasurer violated 2 U.S.C. §§ 434(b), 441a(f), 441b(a), 432(c)(5), 432(d) and 439a(b) and that
17 Gregory W. Meeks violated 2 U.S.C. § 439a(b) (collectively "Respondents").¹

18 NOW, THEREFORE, the Commission and the Respondents having participated in
19 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree
20 as follows:

21 I. The Commission has jurisdiction over the Respondents and the subject matter of this
22 proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.
23 § 437g(a)(4)(A)(i).

24 II. Respondents have had a reasonable opportunity to demonstrate that no action should
25 be taken in this matter.

26 III. Respondents enter voluntarily into this agreement with the Commission.

¹ Patsy A. Simmons replaced Joan E. Flowers as treasurer following the Commission's reason-to-believe findings in this matter.

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IV. The pertinent facts in this matter are as follows:

1. Meeks for Congress and Patsy A. Simmons, in her official capacity as treasurer (“the Committee”) is the principal campaign committee for Gregory W. Meeks within the meaning of 2 U.S.C. § 431(5).

2. Patsy A. Simmons, the Committee’s current treasurer, replaced the previous treasurer Joan E. Flowers on January 20, 2007.

3. Gregory W. Meeks is a U.S. Congressman representing New York’s 6th District. He was a candidate for that Federal office during the 2004 election cycle.

4. The Committee is required to file reports of receipts and disbursements in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended, (“the Act”). See 2 U.S.C. § 434. Each report must disclose: the amount of cash on hand at the beginning and end of the reporting period; the total amount of receipts for the reporting period and for the election cycle; the total amount of disbursements for the reporting period and for the election cycle; and certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. § 434(b)(1), (2), (3), and (4).

5. During the 2004 election cycle, political committees were prohibited from receiving more than a total of \$2,000 per election from any one person. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. §§ 110.1(a) and (b).

6. Contributions which on their face exceed the Act’s contribution limitations, and contributions which do not appear to be excessive on their face, but which exceed the Act’s contribution limits when aggregated with other contributions from the same contributor, may be either deposited into an appropriate campaign depository or refunded to the contributor. 11 C.F.R. § 103.3(b)(3). For those contributions deposited, the treasurer must, among other

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things, notify the contributor in writing within 60 days of the treasurer's receipt of the contribution, that a portion of the contribution that was redesignated and that the contributor may request a refund of the contribution. 11 C.F.R. § 110.1(b).

7. Candidates and committees may not accept contributions from the treasury funds of corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative) or limited liability companies ("LLCs") that elect to be treated as corporations under IRS rules. 2 U.S.C. § 441b(a); 11 C.F.R. § 110.1(g)(3).

8. For each disbursement, the treasurer of a political committee must keep records on the: amount; date; name and address of the payee; purpose (a brief description of why the disbursement was made); and if the disbursement was made on behalf of a candidate, the candidate's name and the office sought by the candidate. If the disbursement was in excess of \$200, the records must include a receipt or invoice from the payee, or a cancelled check or share draft to the payee. If the disbursement was by credit card, the record must include the monthly statement or customer receipt and the cancelled check used to pay the credit card bill. 2 U.S.C. § 432(c)(5) and 11 C.F.R. § 102.9(b).

9. The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 2 U.S.C. § 432(d).

10. Use of campaign funds for personal use is prohibited. 2 U.S.C. § 439a(b).

11. The Commission's regulations define "personal use," as the use of any funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal

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1 officeholder. 11 C.F.R. § 113.1(g). "Federal Office" is defined as to include the office of a
2 Representative in Congress. 2 U.S.C. § 431(3).

3 12. In the years 2003 and 2004, the Committee misstated its cash on hand, receipts
4 and disbursements on its disclosure reports filed with the Commission pursuant to 2 U.S.C.
5 § 434(b). In 2003, receipts were understated in the amount of \$35,495 and disbursements were
6 understated in the amount of \$21,305. In 2004, receipts were understated in the amount of
7 \$110,942 and disbursements were understated in the amount of \$46,515. The Committee
8 misstated the cash on hand balances throughout 2003 and 2004 because of these errors described
9 above. On December 31, 2004, the cash on hand balance was understated by \$64,379.

10 13. During the 2004 election cycle, the Committee received contributions from
11 various individuals, totaling \$22,900 in excess of their primary election limit and disclosed them
12 as general election contributions. The Committee did not inform the contributors in writing of the
13 redesignations and offer them refunds as required by 11 C.F.R. §§ 103.3(b) and 110.1(b).

14 14. Since the issuance of the Commission's audit report, the Committee has refunded
15 the \$22,900 in excessive contributions at issue in this matter. The Committee failed to send
16 written notice to the contributors of presumptive redesignation as set forth in 11 C.F.R.
17 §§ 103.3(b) and 110.1(b)(5)(ii)(B)(6).

18 15. The Committee received contributions totaling \$7,070 from the treasury funds of
19 various corporations and LLCs during the 2004 election cycle. The Committee failed to
20 ascertain the entity status of the LLCs as required by 11 C.F.R. §§ 110.1(g)(5) and 103.3(b).

21 16. The Committee used \$16,958 of campaign funds for what appeared to be personal
22 expenses of the Candidate, including payments to a personal trainer (\$6,230), miscellaneous
23 undocumented credit card expenses for personal expenses of the Candidate (\$916), and vehicle

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1 lease payments and repairs (\$9,812). The Congressman reimbursed the Committee for the
2 miscellaneous credit card expenses at issue after they were identified in the Commission's audit
3 of the Committee.

4 17. Respondents contend that, before the Commission's audit of the Committee's
5 2004 election cycle, the Committee had inadequate recordkeeping and financial control practices,
6 that a volunteer handled the Committee's day-to-day financial operations, and that the Committee
7 has since retained an experienced political compliance consulting firm to handle its accounting
8 and to prepare its reports, and to amend and correct its prior reports.

9 18. Respondents contend that the Congressman had a membership at the fitness
10 center, the fees for which he paid personally, and that the Congressman assumed that the personal
11 trainer services were covered by the dues he had previously paid. According to Respondents, the
12 Committee's former treasurer, Joan E. Flowers, made the payments to the personal trainer
13 without Congressman Meek's knowledge, and that upon learning of the payments, the
14 Congressman reimbursed the Committee for them. Respondents provided a sworn affidavit from
15 Ms. Flowers in which she stated that during the relevant time period, she was both the treasurer of
16 Meeks for Congress and the Chief Executive Officer of the fitness center where the personal
17 trainer worked. According to her affidavit, Ms. Flowers maintained an office at the fitness center
18 and performed some Committee paperwork through that office, including paying Committee bills.
19 After the personal trainer completed his services he prepared a voucher and gave it to the staff
20 person at the fitness center. The staff person would put the vouchers in an envelope and placed
21 them in Ms. Flowers' office. Ms. Flowers then placed the vouchers in a folder for the
22 Committee's bills. She would write a check to the personal trainer from the Committee's account
23 and either hand the check personally to the trainer or leave it in an envelope at the fitness center

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1 for him to pick up. Ms. Flowers' affidavit further states that she paid the personal trainer bills
2 without getting approval from the Congressman.

3 19. Respondents provided documentation that the Congressman paid 50% of the
4 monthly vehicle lease payments to the vendor. Respondents contend that this amount represented
5 the portion of the vehicle's usage for personal activities by the Congressman, and that his monthly
6 payments were made within the thirty (30) day period as prescribed by 11 C.F.R.
7 § 113.1(g)(1)(ii)(D). However, Respondents have failed to provide documentation demonstrating
8 the actual usage of the vehicle associated with campaign and officeholder activities and with
9 personal activities. *See* 11 C.F.R. § 113.1(g)(8).

10 V. Meeks for Congress and its treasurer, in her official capacity committed the
11 following violations:

12 1. misstated the Committee's cash on hand, receipts and disbursements in the
13 aggregate amount of \$278,636 in the years 2003 and 2004, in violation of 2 U.S.C. § 434(b). The
14 Committee will cease and desist from violating 2 U.S.C. § 434(b);

15 2. accepted \$22,900 in contributions in excess of the Act's limitations, in
16 violation of 2 U.S.C. § 441a(f). The Committee will cease and desist from violating 2 U.S.C.
17 § 441a(f);

18 3. accepted a total of \$7,070 in contributions from prohibited sources and
19 from limited liability companies, in violation of 2 U.S.C. § 441b(a). The Committee will cease
20 and desist from violating 2 U.S.C. § 441b(a);

21 4. failed to keep proper records in connection with its operating expenditures
22 and its contributions to other political committees in violation of 2 U.S.C. §§ 432(c)(5) and

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432(d). The Committee will cease and desist from violating 2 U.S.C. §§ 432(c)(5) and 432(d);
and

5. used \$16,958 of campaign funds to pay for the personal expenses of the
Candidate in violation of 2 U.S.C. § 439a(b). The Committee will cease and desist from
violating 2 U.S.C. § 439a(b).

6. failed to keep a contemporaneous mileage log to document the uses of the
vehicle at issue pursuant to 11 C.F.R. § 113.1(g)(8). The Committee will cease and desist from
violating 11 C.F.R. § 113.1(g)(8).

VI. 1. Meeks for Congress will pay a civil penalty to the Federal Election Commission in
the amount of Sixty-Three Thousand Dollars (\$63,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. The Committee will refund to the contributor, or in the alternative, disgorge to the
U.S. Treasury, the \$7,070 in prohibited contributions and the contributions from limited liability
companies received in violation of 2 U.S.C. § 441b(a), to the extent such contributions have not
already been refunded.

3. The Committee will appropriately amend its 2003 and 2004 disclosure reports to
rectify the misstatements it made to cash on hand, receipts and disbursements in violation of
2 U.S.C. § 434(b), to the extent such reports have not already been appropriately amended.

4. Gregory W. Meeks will refund to the Committee the \$9,812 in vehicle lease
payments for which there was no mileage log documenting the uses of the vehicle.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
§ 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance
with this agreement. If the Commission believes that this agreement or any requirement thereof

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has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Gregory W. Meeks shall have no more than 6 months from the date this agreement becomes effective to refund the vehicle lease payments to the Committee, as specified in Section VI.4, and to so notify the Commission. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement all remaining requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Thomaseenia P. Duncan
General Counsel

BY:

Kathleen M. Guth
~~Ann Marie Terzaken~~ Kathleen M. Guth
~~Acting~~ Associate General Counsel for Enforcement

2-4-08
Date

FOR THE RESPONDENTS:

Patsy A. Simmons
Name: Patsy A. Simmons
Position: Treasurer

10/5/07
Date